

## **170.0000 ASSESSMENT**

*See Assessment Appeals Board*

*Change in Ownership*

*Corrections*

*County Board of Equalization*

*Valuation Methodology*

*Value*

**170.0005 Allocation of Value.** An assessor may reallocate land and improvement values for a single-family residence when a property is substantially renovated within two years of its original purchase. Revenue and Taxation Code section 51.5 allows an assessor to correct any base year value error or omission within four years after enrolling an assessment if that error was the result of the exercise of value judgment. C 8/2/2005.

**170.0006 Application of Inflation Factor.** For a property purchased on March 23, 1990, pursuant to Revenue and Taxation Code section 75.18, the 2% inflation factor would be added to the new base year value the following March 1, 1991, since the change in ownership entered on the supplemental roll took place between March 1 and June 30. C 9/13/94.

**170.0007 Application of Inflation Factor.** The requirement in Revenue and Taxation Code section 51(a)(1)(B) to round the annual inflation factor to the nearest one-thousandth of one percent is applicable as of the effective date of the legislation, January 1, 1997; it should not be applied retroactively. Thus, that inflation factor should be applied to timely assessments and escape assessments for the 1997-98 assessment year.

For the 1995-96 and 1996-97 assessment years, when the inflation factor was less than two percent, the Board advised assessors that the inflation factor should be rounded to the nearest one hundredth of one percent. Accordingly, the Board's policy of rounding the inflation factor to the nearest one hundredth of one percent would apply for both timely assessments and escape assessments for the 1995-96 and/or 1996-97 assessment years. C 3/18/99.

**170.0011 Base Year Values.** Revenue and Taxation Code section 110.1 subdivision (a) sets June 30, 1980 as the deadline for establishing 1975 base year values for those properties eligible for such values that were not actually appraised for 1975 as part of the normal appraisal cycle. After that date, 1975 base year values may not be changed unless a portion of the property is removed. Subsequent declines in value must be reflected on the assessment roll; however, this does not create a new base year value.

There is no such statutory limitation regarding base year values for years other than 1975. Based upon section 1 of article XIII of the California Constitution, the assessor can establish post-1975 base year values as follows:

### **Example #1**

In January of 1983 it is discovered that a barn constructed in July of 1976 has never been assessed. The rest of the property, land and improvements, has a base year of 1975. However, since the barn was newly constructed in July of 1976, it should have been appraised as of the date construction was completed and assessed for the 1978-79 assessment year. In this situation, the barn should be valued as of July 1976 and that value factored forward (by the inflation factor not to exceed two percent per year) for the 1983-84 assessment roll, and escapes should be levied for the four preceding years using the appropriately factored value for each of those years.

## **Example #2**

A property was underassessed in 1980 because of an unrecorded change in ownership. In February 1990 the change in ownership is discovered. The property should be reappraised at a 1980 base year value, and that value should be factored to 1990. The factored value would be enrolled for the 1990-91 assessment roll. In this case, escape assessments should be levied for the preceding eight years using the appropriately factored value for each of the those years.

The assessor should change a post-1975 base year value whenever he determined that his original estimate of market value is erroneous, but he must be careful to use only data that is appropriate for base year valuation. Any change in base year value would initiate a new assessment appeals period as authorized under Revenue and Taxation Code section 80 subdivision (a)(3). LTA 7/22/80 (No. 80/113); LTA 10/29/82 (No. 82/124).

**170.0012 Base Year Values.** Increases in post-1975 base year values may be made by means of escape assessments whenever the assessor discovers an underassessment, whether due to a clerical error, an error in judgment, or otherwise, except for those values set by the local equalization board as specified in Revenue and Taxation Code section 80(a)(3). Escape assessments may be levied for no more than four years, except in the cases of fraud or collusion (six years) or unrecorded changes in ownership (eight years). LTA 2/8/83 (No. 83/14).

**170.0013 Base Year Values.** When allocating a factored base year value due to a rearrangement of parcels but without a change in ownership or new construction, the allocation need only be reasonable in relation to the relative value of each new parcel and should be based on appraisal judgment. Article XIII A of the California Constitution requires only that there be no change to the overall factored base year value. C 6/8/95.

170.0014 Base Year Values. C 6/4/90. Deleted 1999.

**170.0015 Base Year Values.** An assessor's intentional assessment of only a portion of a property on the false assumption that the omitted portion is state-assessed does not constitute a clerical error. Upon discovery of the omission, the assessor must determine a base year value pursuant to Revenue and Taxation Code section 51.5(a). The omission does not involve the exercise of the assessor's judgment as to value. Rather, the base year value was omitted due to a mistake of fact as to assessability.

The error may be corrected pursuant to the provisions of Revenue and Taxation Code section 532 with the making of appropriate escape assessments for each year open under the statute of limitations. Since the escape assessments were or will be made outside the regular assessment period, the assessee will be able to file applications for equalization within 60 days after notification of the assessments as provided by Revenue and Taxation Code section 1605. C 5/26/89.

**170.0016 Base Year Values.** Once a base year value is adjusted downward to reflect the current market value of a property, that property must thereafter be annually appraised and assessed at its full cash value until that value exceeds the factored base year value. LTA 8/21/96 (No. 96/52).

**170.0017 Base Year Values—Changes.** Base year values are generally control figures which may be adjusted to reflect inflation or to correct an error or omission. A change in a base year value does not necessarily result in a change in a current assessed value, e.g., a newly discovered change in ownership that occurred in a prior year followed by a period of deflation where the assessment based upon the decline in value is lower than the new base

year value. Revenue and Taxation Code section 51.5 is the authority for base year value corrections and contains its own time limits.

Escape assessments may or may not result from a base year value correction. Such escape assessments are subject to the time limits found in Revenue and Taxation Code sections 531.2 and 532, not those contained in section 51.5. C 5/13/88.

**170.0018 Base Year Values—Combination.** When a parcel with a base year value and enrolled lower current market value is combined with parcels enrolled at their factored base year value, the base year value for the combined parcels should be a total base year value that reflects the base year value of each parcel. The lower current market value of the one parcel before combination should not be used to determine the combined parcel's base year value. C 9/9/96.

**170.0019 Base Year Values—Correction.** Where an assessor recognizes an error and reduces a base year value pursuant to Revenue and Taxation Code section 51.5, the taxpayer is entitled to the cancellation or refund of taxes for prior years to the extent they are open under the applicable statutes of limitation. Where, however, a taxpayer utilizes the assessment appeals process available under Revenue and Taxation Code section 80 et seq., a reduction in value applies to the year for which the appeal is filed and to future assessment years only. Section 51.5 does not provide an alternate authority for filing an assessment appeal or for the reduction of values via the assessment appeals process. C 12/26/91.

**170.0025 Correction.** A taxpayer is not required to file an application for reduction in assessment to obtain a reduced assessment due to a decline in value of his or her property if the assessor determines that a reduction in value is warranted. The 1995 amendment to Revenue and Taxation Code section 4831, which added subdivision (b), allows the assessor, for up to one year after making an assessment, to correct the assessment if the error or omission involved the exercise of a value judgment that arose solely from a failure to reflect a decline in value. C 6/21/96.

**170.0030 Date of Value on Regular Roll.** Pursuant to Revenue and Taxation Code section 401.3, the proper valuation date for the annual Revenue and taxation Code section 601 assessment roll is the lien date. For properties damaged by a flood occurring on January 2, the proper methodology would be to enroll their full values as of the lien date and to then enroll their reduced values reflecting the flood damage on the supplemental roll pursuant to Revenue and Taxation Code sections 75.11 and 170. C 8/24/99.

**170.0035 Easements.** An irrevocable right to the limited use or enjoyment of a lake is an easement which is appurtenant (attached to particular land) or in gross (not attached to any particular land) but is, in either case, an interest in real property subject to assessment. C 5/17/83.

**170.0038 Enrollment.** For statute of limitation purposes, an assessment is made on the regular roll (Revenue and Taxation Code section 601), on the supplemental roll (Revenue and Taxation Code section 75.7), or as an escape assessment when the required information is delivered by the assessor to the county auditor. When the assessment is an escape, it is made as indicated only if the required assessment notice is sent (Revenue and Taxation Code section 534); otherwise, the escape assessment is made when the assessee receives the tax bill. C 2/24/94; C 2/3/98.

**170.0040 Floating Homes.** Floating homes are real property for assessment purposes, and the 1979 full cash value of a floating home shall be used as the base year value. LTA 3/17/82 (No. 82/43).

**170.0045 Fractional Interests.** Article XIII A, section 2, subdivision (a) requires a reassessment of real property upon its change in ownership. When a change in ownership occurs with respect to a fractional interest in real property, that fractional interest must be reassessed and any increase in value is added to the base year value of the subject real property.

Article XIII A, section 2, subdivision (b) authorizes a reduction in the full cash value base to reflect a decline in value. This subdivision has been implemented by the Legislature in Revenue and Taxation Code section 51, which does not authorize the separate assessment of fractional interests in real property for purposes of reflecting a decline in value, unless such a fractional interest constitutes an appraisal unit that persons in the market place commonly buy and sell as a unit, or that are normally valued separately. C 6/9/98.

**170.0050 Improvements Owned by Other Than Landowner.** If a request for separate assessment of separately owned improvements is made under Revenue and Taxation Code section 2188.2, the assessor may, at his elective discretion, assess the improvements on the secured roll to the owner of the improvements if the assessment can be secured by a lien against other land in his county owned by the owner of the improvements so assessed, or he may assess the improvements on the unsecured roll to the owner of the improvements. C 7/12/84.

**170.0051 Improvements Owned by Other Than Landowner.** If a tenant owns improvements located in a structure on land both owned by the landlord either the landlord or tenant may file a statement of separate ownership and thereby force the assessor to separately assess the property owned by each. Revenue and Taxation Code section 2188.2 is mandatory. C 12/6/89.

**170.0052 Improvements Owned by Other Than Landowner.** Revenue and Taxation Code section 2188.2 applies when *some* of the improvement are owned by a person other than the owner of the land on which they are located as well as when *all* of the improvements are so owned. C 4/7/94.

**170.0055 Inflation Factor for 1996-97 Assessment Roll.** LTA 2/29/96 (No. 96/17). Deleted 1998.

**170.0056 Investment Tax Credits.** Whereas discounts, rebates, and manufacturers' credits reduce the cost of properties and may, therefore, have an impact on value, investment tax credits do not. Investment tax credits are income tax benefits afforded buyers by the government as a way of stimulating the economy. They do not, as between sellers and buyers, have anything to do with sales price. The investment tax credit impacts the buyer's capital outlay but not the exchange value of the property. C 4/30/87.

**170.0057 Judgment.** The correction, cancellation, and refund sections of the Revenue and Taxation Code, when read together, lead to the conclusion that "erroneously or illegally" does not include errors in valuation judgment. The appropriate and necessary administrative remedy for disputes involving valuation judgments is an assessment appeal before a board of equalization or assessment appeals board. The appellate court cases fully support this interpretation of the term and set forth the definitive circumstances under which an assessment is considered to have been made "erroneously or illegally." C 10/22/97.

**170.0059 Leased Personal Property.** When a person, as defined in Revenue and Taxation Code section 19, has a headquarters or primary place of conducting business within a county but has personal property out on lease at various locations throughout the county, all of that leased property may, at the assessor's discretion, be assessed in one combined

assessment and to the tax-rate area where the person's primary place of business is located. When a person has more than one facility in a county, the one at which personal property of the greatest value is located should be used as the situs of all of that person's leased personal property in the county.

In the absence of a regular place of business within the county, the location having leased equipment of the greatest value should be considered the owner's primary place of business within the county and should be used as the situs for all of the leased equipment in the county. If nearly all of the leased equipment is located at a location other than the owner's primary place of business, then that location should be considered the situs for all leased equipment in the county. LTA 6/13/96 (No. 96/37).

170.0060 **Mobilehome Accessories.** LTA 8/19/83 (No. 83/86). Deleted 2004.

[170.0065](#) **Mutual Water Company.** Shares in mutual water companies are, in some instances, owned by persons or entities that do not necessarily receive water from the companies. In other instances the companies are owned by the recipients of the water, and the shares representing their interests are appurtenant to the lands served, i.e. they are inseparable and transfer only with a transfer of the land. When the shares are appurtenant to the lands served, they should not be separately assessed since their values would be reflected in the prices paid for the lands and would be already included in the values assigned to the lands. C 1/17/68; C 11/19/90.

170.0066 **Notice.** C 10/8/93. Deleted 2000.

[170.0067](#) **Penalties.** Penalties provided for at the time an assessment is made are not subject to increase by virtue of a subsequent amendment of the penalty statute. C 2/6/95.

[170.0068](#) **Penalty Assessments.** In making penalty assessments, assessors should apply the penalty provided by statute at the time the assessment is made, even though the incorrect assessment was made at a time prior to enactment of the statutory penalty applicable at the time of the escape assessment. Tax penalties are civil in nature and do not involve the criminal law principle of ex post facto. C 9/26/96.

[170.0069](#) **Possessory Interests/Personalty.** A county board of supervisors, when sitting as such, may require the assessor to place all possessory interest assessments on the secured roll. Personal property may, at the discretion of the county assessor, be secured to a possessory interest assessment on the secured roll if the certificate of security provided for in Revenue and Taxation Code section 2189.3 is issued. An assessment appeals board, even if composed of county supervisors, has no authority to determine the roll on which any given assessment is placed. C 11/9/79.

[170.0070](#) **Reduction of Penalty.** In the event that property has been overassessed and the assessment is ultimately reduced, the amount of a 10 percent penalty imposed pursuant to Revenue and Taxation Code section 463 must also be reduced since the penalty is based upon the amount of the assessment. LTA 1/13/86 (No. 86/7).

[170.0080](#) **Rounding of Value Calculations.** For value determinations that involve the exercise of value judgment, it is permissible for an assessor to enroll taxable value after rounding off the value calculations to the. However, rounding is not appropriate for adjustments to base year values because such adjustments involve the application of an inflation factor to previously established values, and not an exercise of value judgment. C 9/21/78.

[170.0085](#) **Safe Harbor Lease Transactions.** As the result of the Economic Recovery Act of 1981, corporations can buy or sell certain federal income tax benefits, Investment Tax



Credits and the opportunity to claim Accelerated Cost Recovery System deductions. These benefits derive from acquisition of qualifying new business property.

A corporation acquiring new business property but not having sufficient net income to realize any benefit from such income tax benefits may sell such benefits through an agreement to lease the property. The corporation acquiring such benefits through a lease or sale/leaseback agreement is said to have established a safe harbor-sheltering of income from higher income tax.

Leases and sale/leaseback agreements may transfer rights of ownership of the property subject thereto, in addition to such income tax benefits. Thus, determination of ownership and whether the property is a fixture or other type of real property is important. In most cases, historical cost is the apparent approach to use in determining market value for property subject to a safe harbor lease. LTA 5/7/82 (No. 82/68).

**170.0086 Safe Harbor Lease Transactions.** A safe harbor lease has no bearing on the fair market value of the property for assessment purposes. The value of a property is the value of all the rights and benefits that are capable of private ownership, and that value is not altered when the owner of a property conveys some of those rights to another. LTA 1/13/84 (No. 84/7).

**170.0087 Sale After Assessment.** Nothing in Revenue and Taxation Code section 405 nor in any other related section of the code (other than those applicable to supplemental assessments) authorizes the county assessor or the county to prorate assessments or taxes between the person owning a property on the lien date and a person who subsequently purchases it. The proration of property taxes is typically a matter of contract between the buyer and seller. C 7/8/88.

**170.0088 Sales Price as Value.** In *Dennis v. Santa Clara County* 215 Cal.App.3d 1019, the court held that assessors are not bound to accept a purchase price paid for real property in a concededly arm's length, open market transaction when there is a variable that skews the purchase price. The Revenue and Taxation Code section 110 presumption that the purchase price is fair market value is rebuttable and may be overcome by values derived from use of the income and market valuation methods. LTA 5/11/90 (No. 90/30).

**170.0090 Stagnant or Declining Values.** Following the year a base year value is first enrolled, Revenue and Taxation Code sections 51 and 2212 require that the value shall be factored by the statewide consumer price index up to a maximum of two percentage points each year.

The correct value to be enrolled in any year is the lower of a property's factored base year value or its current market value. If the value of a property has leveled off or declined since the base year value was established, current market value would be the lower value and should be enrolled. Enrolling a current market value does not establish a new base year value, however, and factoring of the base year value should continue each year. When the value of a property increases over and above the current factored base year value, that value would again be the lower value and should be enrolled. LTA 2/19/82 (No. 82/25).

**170.0095 Stock Cooperative.** A stock cooperative is a corporation which is formed to hold title to improved real property, either in fee simple or for a term of years. Shareholders thereof receive a right of exclusive occupancy of a portion of the property.

Reappraisal upon the transfer of stock of a cooperative housing corporation, which constitutes a change of ownership under Revenue and Taxation Code section 62(h), is controlled by Revenue and Taxation Code section 65.1. Only the property unit transferred

and the share in the common area reserved as an appurtenance of such unit is revalued. C 7/14/82.

**170.0105 Subdivision Lots.** When a new subdivision map is filed and new lot parcels are created, there are no grounds for reappraisal. The base-year value placed upon the lots should be an allocated portion of the prior base-year value of the acreage involved. It is the Board's position that value should be allocated to the portion of the property designated as streets and right-of-ways as well as to the lots and that the streets be separately parcelized and assessed. Allocation may be done in several ways, but in those instances where the lots are relatively equal in utility, a square-foot basis is preferred.

When official acceptance of the land, i.e., the right-of-way, by the governmental entity occurs, usually after the streets, gutters, etc., have been completed, such land/street area becomes exempt from taxation. As for the street improvements, it is the Board's position that the appraisal unit is the entire subdivision acreage until the lots and/or right-of-ways are actually transferred. Thus, the value of all improvements within the subdivision should be allocated over the entire subdivision, including both the lot and street parcels. Again, there are several possible methods of allocation, but in most instances, a square-foot allocation is preferred.

When street right-of-ways and improvements are accepted by the governmental entity, it is the Board's position that only the value of land and improvement allocated to the street parcel should be removed from the roll. The value of the street improvements previously allocated to the lots should remain on the roll even though the street improvements are actually located on the street parcel. LTA 6/5/84 (No. 84/51).

**170.0115 Time Share Ownership.** Time share owners are joint owners having undivided interests in the property. The undivided interests may be in a specific unit or in a total project consisting of many units.

The reappraisal of undivided interests upon a change of ownership is controlled by Revenue and Taxation Code section 65(b). An interest of five percent or more must be transferred before reappraisal can take place, and then only the interest transferred is revalued. The interest transferred in time share transactions is generally specified on the deed.

The base year appraisal of a time share property, or portion thereof, eligible for valuation should be made on the basis of the market value of the time shares rather than on the basis of cost or comparability with sold properties held in ownership other than time share. While such properties may be physically similar, they are not directly comparable because of the difference in use. LTA 6/24/80 (No. 80/97).

**170.0116 Time Shares.** For both time-share estates, the right of occupancy in a time-share project which is coupled with an estate in the real property, and time-share uses, a license or contractual or membership right of occupancy in a time-share project which is not coupled with an estate in the real property, the preferred approach to value is the market approach. The purchase price of an individual time share, carefully adjusted for the influence of financing and for the inclusion of nonassessable items in the time-share package, such as household furnishings, memberships in time-share exchange networks and club memberships, and prepaid expenses, can be a reliable indicator of the time-share's value.

Revenue and Taxation Code sections 2188.8 and 2188.9 provide for the separate assessment of time-share properties. LTA 7/27/82 (No. 82/92); LTA 10/20/82 (No. 82/122).

**170.0125 Waiver of Statute of Limitations.** Revenue and Taxation Code section 532.1 authorizes the assessor and a taxpayer, by agreement, to extend the time period within

which an assessment, correction, or claim for refund may be made. LTA 6/29/84 (No. 84/61).

[170.0150](#) **Water Rights.** Water rights owned by a city in another county are not part of a flume, canal, ditch or aqueduct that is assessable by the Board but, rather, are assessable by the county assessor pursuant to section 11 of article XIII of the Constitution. C 10/22/84.